

August 19, 2004

Thomas Robison
Science Applications International
Corporation
10269 Campus Point Drive
San Diego, CA 92121

RE: REQUEST FOR ADVISORY OPINION 04-155

Dear Mr. Robison:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on August 18, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding Science Applications International Corporation's (SAIC) ability to provide security and communications services under a pending contract at the Seaport. SAIC is also requesting approval of a conflict of interest avoidance and mitigation plan.

The Office of Capital Improvements Construction Coordination (CICC) recently issued a Notice to Professional Consultants to provide Security and Communications Services at the Seaport. The consultant will assist the Seaport in "the supervision of the installation and implementation of the security equipment." The scope of services consists of "design and development of technical specifications, production of Auto CADD drawings and details for the installation of security fences and gates, lighting, access controls (including

biometrics), I.D. card readers, public address and security warning systems, intelligent transportation systems, cargo security gates, command and control centers, communications networks and other security communications related technologies including required underlying physical infrastructure." Consultants must also have extensive knowledge of the standards and regulations of the Department of Homeland Security, FDLE, FBI, US Customs, US Coast Guard and other state and federal agencies. Finally, firms are required to know the operational and security details of cargo yards and cruise terminals.

Addendum #2 to the NTPC provides that "Prime Consultants must identify whether they or any of their subconsultants or members have participated in any way on any Port of Miami projects for the Miami-Dade Seaport Department related to security and communications including but not limited to the services described in the Scope of Services. In identifying themselves or any such subconsultants or members, the Prime Consultant must identify the specific work that they the sub-consultant or member performed or work to be performed on previous security and communications projects as well as the work to be performed as part of this solicitation."

SAIC is currently serving as a subconsultant to the Haskell Company at the Port of Miami. SAIC's duties include providing security equipment for the access control gate system and the modification of software for access control elements for the Port of Miami.

SAIC is also providing services to the Miami-Dade County Transit Department under a contract with the U.S. Department of Homeland Security. SAIC is assessing risk, criticality, response, recovery, threat and vulnerability of specific sites.

The SAIC Conflict of Interest Avoidance and Mitigation Plan ("Mitigation Plan") consists of the following elements:

- Work under the two agreements will be undertaken by two different divisions of the corporation
- An in-house project manager will review all work orders and assignments for potential conflicts between assignments
- The employee or division will seek review from the Ethics Commission of potential conflicts where the review is deemed necessary by the SAIC project manager
- All SAIC employees will attend conflict of interest training and certify that they understand and agree to abide by the requirements of the mitigation plan
- All employees will sign a confidentiality agreement and information flow will be monitored to ensure that confidential information is not shared between the two divisions.
- The project manager will implement and monitor any restrictions imposed by the Ethics Commission on SAIC's activities under the proposed contract

The Commission found SAIC may serve as the Prime Consultant on the Security and Communications contract as long as the firm maintains the firewalls outlined in its Conflict of Interest plan.

The Ethics Commission has previously held that a company may provide services on a related contract if the company and the department create and maintain firewalls to ensure that there are no overlapping responsibilities or disclosure of confidential information. In RQO 03-53, the Ethics Commission opined that HJ Ross could provide supplemental architectural and

engineering services on the South Terminal program where the firm had previously provided design services on South Terminal projects. In RQO 01-07, the Ethics Commission opined that Marks Bros could work on two related airport projects if the firm and the airport created firewalls between the personnel working on the two projects and the airport screened work orders to ensure that there was no overlap in responsibilities.

Similarly, in the instant case, SAIC may provide security and communications services to the Seaport if the company and the Seaport implements and monitors the firewalls referenced in the mitigation plan. Further, SAIC must provide the Ethics Commission with a report regarding its compliance with this opinion within 60 days of the Notice to Proceed and provide a report within 60 days of the issuance of each work order for this project.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

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ROBERT MEYERS
Executive Director

cc: Faith Samuels, CICC
Christopher Mazzella, Inspector General

